

Serial Number 10/092,152
Amendment Under 37 CFR 1.116
Reply to Final Rejection Dated April 21, 2004

REMARKS/ARGUMENTS

Applicant respectfully requests reconsideration and withdrawal of the rejections set forth in the above-identified Final Rejection.

The undersigned acknowledges with appreciation the telephone interview held on July 2, 2004 with Examiner Patterson. Examiner Patterson is thanked for the interview and for the courtesies extended to the undersigned. During the interview the rejections over newly cited U.S.P. 6,210,764 to Hayes were discussed.

The undersigned pointed out that Applicant did not agree with the interpretation set forth in the Final Rejection that Hayes shows the multilayer structure as claimed herein. Specifically, it was pointed out that the improvement of Hayes is the provision of a multilayer film structure in which the antiblock particles are present in an internal film layer as opposed to an external film layer. In contrast, antiblock particles are not required in Applicant's invention.

The antiblock particles of Hayes are preferably silica-based (see column 7, line 62 to column 8, line 21), although organic materials are also disclosed. Among the organic materials are "polyester, EVOH (ethylene/vinyl alcohol copolymer), nylon 6, nylon 6,6, syndiotactic polystyrene, engineering resins, liquid crystalline polymers, and aromatic nylons", as disclosed at column 8, lines 24 to 27 of the reference.

It was submitted that the antiblock particles did not form a film layer, so that even if one skilled in the art would be led to use nylon antiblock particles this would not result in a layer of nylon film as claimed. Moreover, there is no teaching in Hayes of the type of film structure claimed in claim 29 wherein there are several layers of nylon as well as a layer of EVOH. It was submitted that one skilled in the art would not be led by the disclosure of Hayes (a) to select the type of organic material as the antiblock agent, (b) to

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select the specific layer configuration that is claimed and (c) to provide layers of nylon and EVOH rather than particles.

However, in order to advance the prosecution it was suggested that claim 29 be amended to refer to the various layers as consisting essentially of nylon or EVOH as the case may be. By this Amendment, independent claim 29 has accordingly been amended. Examiner Patterson stated that he would give favorable consideration to such an amendment to the claim.

Claims 29, 32-35, 37 and 64 were rejected under 35 USC as unpatentable over Hayes in view of Japanese patent 10110096. The latter reference was cited as suggesting nylon 6. However, it is respectfully submitted that this secondary reference does not rectify the shortcomings of the Hayes patent as pointed out above. Accordingly, it is respectfully submitted that these claims are indeed patentable over the proposed combination of references.

Claim 30 was rejected under 35 USC 103 as unpatentable over Hayes, the Japanese patent and Mueller et al., which was cited as suggesting corona treatment. However, it is clear that this reference likewise does not suggest the features missing from Hayes and accordingly it is submitted that claim 30 is patentable over the proposed combination of references.

Claim 31 was rejected under 35 USC 103 as unpatentable over Hayes in view of the Japanese patent and Balloni et al., which was cited as showing a polydimethylsiloxane to reduce the coefficient of friction of a packaging material. However, Balloni et al. also do not rectify the deficiencies in the Hayes patent and thus the rejection of claim 30 based on the proposed combination of references should not be maintained.

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Claim 36 was rejected under 35 USC 103 as unpatentable over Hayes in view of the Japanese patent and Toney et al., which was cited as disclosing a surface coating of an antifog composition. Applicant respectfully submits that Toney et al. also does not supply the features missing in Hayes and accordingly claim 36 is submitted to be patentable over this combination of references.

Claims 61-63 and 65-67 were rejected under 35 USC 103 as unpatentable over Hayes in view of the Japanese patent and Hofmeister et al. It was stated that this third reference discloses nylon 666. However, even if the references were combined as suggested the claimed subject matter would still not be shown since Hofmeister et al. do not supply the missing features of Hayes. Therefore, claims 61-63 and 65-67 are submitted to be patentable over this proposed combination of references.

It is respectfully submitted that claim 29 and dependent claims 30-37 and 61-67 are indeed patentable over Hayes since the reference does not teach or suggest the features of the claims. Accordingly, it is submitted that upon entry of this Amendment all of the rejections of the claims based on Hayes should be withdrawn.

Also by this Amendment, claims 1-28 and 54-60 have been cancelled to advance the prosecution and without prejudice to filing divisional applications thereon. Although not stated in the Final Rejection, Examiner Patterson confirmed that these claims were withdrawn as being non-elected.

Applicant also notes with appreciation that the previous 35 USC 112 rejection of the claims has been withdrawn, as well as the previous prior art rejections.

For completeness, Applicant points out a few errors in the Final Rejection. On page 4 there is a reference to "Walton et al" at line 2. It is believed that reference should

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be to Hayes. Similarly, at page 7, line 6 there is a reference to "Walton et al". It is also believed that this was intended to refer to Hayes.

Applicant respectfully requests reconsideration and withdrawal of all of the rejections of the claims. In view of the above amendment and remarks, it is respectfully submitted that claims 29-37 and 61-67 are patentable and should be allowed. Accordingly, entry of this Amendment and allowance of the application are most respectfully requested. Alternatively, entry of this Amendment for purposes of appeal is respectfully requested since the issues on appeal would be reduced.

Should any issues remain, the Examiner is respectfully requested to telephone the undersigned.

Respectfully submitted,

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